

IN THE STATE OF SOUTH CAROLINA  
In The Supreme Court

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APPEAL FROM SPARTANBURG COUNTY  
Court of Common Pleas

R. Keith Kelly, Presiding in Spartanburg County

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Case No. 2013-CP-42-1234

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Jerel Worthy, ..... Appellant,

v.

State of South Carolina, ..... Respondent.

**RECEIVED**

JAN 13 2015

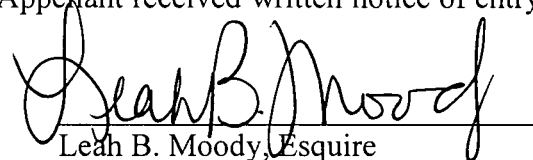
**S.C. SUPREME COURT**

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NOTICE OF APPEAL

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Jerel Worthy appeals the order of the Honorable R. Keith Kelly, November 26, 2014 and mailed on December 8, 2014, 2014. Appellant received written notice of entry of the final order on December 10, 2014.



Leah B. Moody, Esquire  
Law Office of Leah B. Moody, LLC  
235 E. Main Street, Suite 115  
Post Office Box 1015  
Rock Hill, South Carolina 29731

Other Counsel of record:  
Suzanne White, SC Attorney General's Office  
Rembert C. Dennis Building  
Post Office Box 11549  
Columbia, South Carolina 29211-1549  
(803) 734-3970

January 6, 2015  
Rock Hill, S.C.

**IN THE STATE OF SOUTH CAROLINA  
In The Supreme Court**

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**APPEAL FROM SPARTANBURG COUNTY  
Court of Common Pleas**

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**Case No.: 2013-CP-42-1234**

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**Jerel Worthy, ..... Appellant,**

**v.**

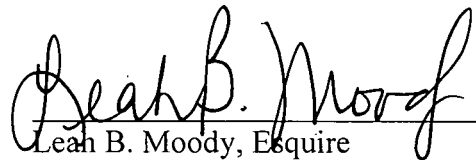
**State of South Carolina, ..... Respondent.**

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**PROOF OF SERVICE**

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I certify that I have served the Notice of Appeal on Suzanne White by depositing a copy of it in the United States Mail, postage prepaid, on 1/6, 2015 addressed to its attorney of record, Suzanne White, Post Office Box 11549, Columbia, South Carolina, 29211-1549.



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Leah B. Moody, Esquire  
Law Office of Leah B. Moody, LLC  
235 E. Main Street, Suite 115  
Post Office Box 1015  
Rock Hill, South Carolina 29731

January 6, 2015  
cc Jerel Worthy  
Sharon A. Graham

Law Office of Leah B. Moody, LLC

235 East Main Street  
Post Office Box 1015  
Rock Hill, South Carolina 29731  
[lbmatty@comporium.net](mailto:lbmatty@comporium.net)

Phone: (803) 327-4192

Fax: (803) 329-1344

January 6, 2015

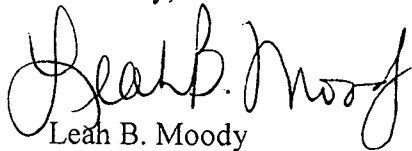
The Honorable Hope Blackley  
Spartanburg County Clerk of Court  
Post Office 3483  
Spartanburg, South Carolina 29304

**RE: Jerel Worthy vs. State of South Carolina**  
**C.A. No.: 2013-CP-42-1234**

Dear Ms. Blackley:

Please find enclosed the Notice of Appeal and the Proof of Service in the above-referenced matter.

Sincerely,



Leah B. Moody

Enclosures

cc Jerel Worthy  
Suzanne White, Assistant Attorney General  
Daniel E. Shearouse, Clerk of Court, South Carolina Supreme Court  
Sharon Graham, SCCID

## Law Office of Leah B. Moody, LLC

235 East Main Street  
Post Office Box 1015  
Rock Hill, South Carolina 29731  
[lbmatty@comporium.net](mailto:lbmatty@comporium.net)

Phone: (803) 327-4192

Fax: (803) 329-1344

January 6, 2015

Suzanne White, Esquire  
South Carolina Attorney General's Office  
Post Office Box 11549  
Columbia, South Carolina 29211

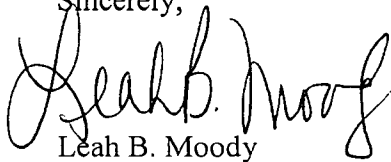
RE: Jerel Worthy v. State of South Carolina  
C.A. No.: 2013-CP-42-1234

Dear Ms. White:

The Spartanburg County Court of Common Pleas appointed my office to represent Jerel Worthy in his Post-Conviction Relief action. Please find enclosed a copy of the Notice of Appeal and Proof of Service in this matter.

If you have any questions or concerns, please feel free to contact my office. Thank you.

Sincerely,



Leah B. Moody

Enclosures

Cc Jerel Worthy  
Daniel E. Shearouse, Clerk of Court, South Carolina Supreme Court  
Hope Blackley, Clerk of Court, Spartanburg County  
Sharon Graham, SCCID

Law Office of Leah B. Moody, LLC

235 East Main Street  
Post Office Box 1015  
Rock Hill, South Carolina 29731  
[lbmatty@comporium.net](mailto:lbmatty@comporium.net)

Phone: (803) 327-4192

Fax: (803) 329-1344

January 6, 2015

Ms. Sharon A. Graham  
SC Commission on Indigent Defense  
Division of Appellate Defense  
Post Office Box 11433  
Columbia, South Carolina 29211-1433

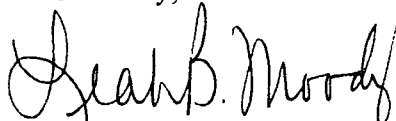
RE: Jerel Worthy v. State of South Carolina  
Case No.: 2013-CP-42-1234

Dear Ms. Graham:

The Spartanburg County Court of Common Pleas appointed my office to represent Jerel Worthy in his Post-Conviction Relief action. Please find enclosed the Notice of Appeal and Proof of Service the above-referenced matter.

Thank you for your attention in this matter.

Sincerely,



Leah B. Moody

Enclosures

cc Jerel Worthy  
Suzanne White, Esquire  
Daniel Shearouse, Clerk of Court, Supreme Court  
Hope Blackley, Clerk of Court, Spartanburg County

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF SPARTANBURG )  
 )  
Jerel Worthy, #302465, )  
 )  
Applicant, )  
 )  
v. )  
 )  
State of South Carolina, )  
 )  
Respondent. )  
\_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS  
SEVENTH JUDICIAL CIRCUIT

2013-CP-42-1234

**ORDER OF DISMISSAL**

2014 DEC -2 AM 8:35  
M. HOPE BLAUGHER

This matter comes before the Court by way of an Application for Post-Conviction Relief filed March 12, 2013. The Respondent made its Return on February 25, 2014. An evidentiary hearing was convened on November 5, 2014, at the Spartanburg County Courthouse. The Applicant was present at the hearing and was represented by Leah B. Moody. Suzanne H. White, Esquire, of the South Carolina Attorney General's Office, represented the Respondent.

At the hearing, the State moved to dismiss all claims as either barred by the statute of limitations or for failure to state a claim cognizable in post-conviction relief. Arguments were presented by counsel for both parties. This Court also had before it a copy of the records of the Spartanburg County Clerk of Court regarding the subject convictions, the PCR Application, the Return, and the guilty plea transcript.

**PROCEDURAL HISTORY**

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. He was indicted at the October 2003 term of the Spartanburg County Grand Jury for two charges of distribution of crack cocaine and distribution within one half mile (2003-GS-42-3300, -3301, counts one and two). The Applicant was represented by James A. Cheek, Esquire. The Applicant pled guilty to

RKK

distribution of crack cocaine – 3<sup>rd</sup> offense before the Honorable J. Derham Cole on June 2, 2004. Judge Cole sentenced Applicant to consecutive sentence of three years for distribution of crack cocaine – 3<sup>rd</sup> offense and fifteen years and \$10,000, suspended upon service to five years of probation for distribution of crack within one half mile. Upon information and belief, Applicant's community supervision was revoked for six months on September 18, 2009, and he subsequently had a portion of his probation revoked.

Applicant was then indicted at the November 2010 term (amended May 2012 term) to possession of crack cocaine (2010-GS-42-6279). The Applicant proceeded *pro se* and pled guilty on May 14, 2012. The Honorable Roger L. Couch sentenced Applicant to three years. At the same time, on May 14, 2012, Judge Couch revoked Applicant's probation in full, ordering Applicant to serve fifteen years. The Applicant did not appeal his conviction, sentence, or probation violation.

### **ALLEGATIONS**

In his application, the Applicant alleges he is being held in custody unlawfully for the following reasons:

- a. Ineffective assistance of counsel;
- b. Violation of constitutional rights, in that;
  - i. Applicant requested an attorney, but one was not present,
  - ii. CDR code not complied with,
- c. Lack of jurisdiction.

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This Court has had the opportunity to review the record in its entirety and has heard the arguments presented at the PCR hearing. Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

#### **Ineffective Assistance of Counsel**

specific inquiry addressing the disadvantages of a *pro se* defense as required by the second Faretta prong, the entire record may be reviewed to determine whether the defendant had a sufficient background or was apprised of his rights by some other source. Prince v. State, 301 S.C. 422, 423-24, 392 S.E.2d 462, 463 (1990).

This Court finds that the record is clear that reflects that Applicant made a knowing and voluntary waiver of counsel at his guilty plea and probation revocation. The plea judge asked Applicant if he was aware of his constitutional right to have an attorney and if Applicant wished to proceed without an attorney. (Tr. p. 8-9). Applicant was also advised that he should inform the judge if Applicant felt he needed an attorney at any time. (Tr. p. 9). Applicant acknowledged that he had previously been represented by an attorney in court and was aware of what the attorney could do to help Applicant. (Tr. p. 9). The plea judge also asked Applicant if he was aware of the probation revocation hearing scheduled that day as well and if he wished to go forward without an attorney on either matter. (Tr. p. 12). Finally, the judge asked Applicant if based on his age and education he felt able to represent himself and the Applicant affirmed. (Tr. p. 13).

This Court finds that it is clear from the record that the Applicant was aware of his constitutional right to have an attorney represent him at his guilty plea and probation revocation and the court ensured that Applicant was familiar with the judicial process, understanding how an attorney could assist, but chose to proceed *pro se*. Therefore, this claim is summarily dismissed.

#### **Lack of Jurisdiction**

This Court finds that the allegation of a lack of jurisdiction, although presented in the application, was not presented as a claim at the hearing. Therefore, this Court finds that the

Applicant voluntarily abandoned this claim.

**CONCLUSION**

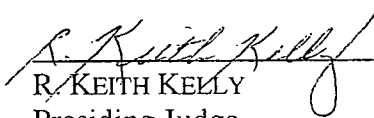
Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

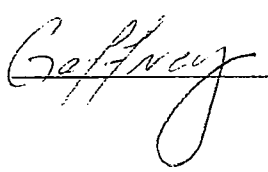
This Court cautions Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

**IT IS THEREFORE ORDERED:**

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 26 day of November, 2014.

  
 R. KEITH KELLY  
 Presiding Judge

, South Carolina

2014 DEC -2 AM 8:35  
 AL HOPE BRADLEY  
 STATE CLERK OF COURT

**M. HOPE BLACKLEY**

Clerk of Court, Spartanburg County  
Post Office Box 3483  
Spartanburg, South Carolina 29304-3483

**RETURN SERVICE  
REQUESTED**

**FIRST CLASS  
PRESORTED**



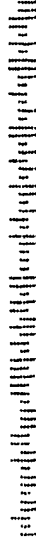
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MAILED FROM ZIP CODE 29303

Leah B. Moody  
235 E. Main St., Ste 115 PO Box 1015  
Rock Hill, SC 29730

**RECEIVED DEC 10 2014**

pfm 2013-1234

17 JANUARY 29730



Law Office of Leah B. Moody, LLC

235 East Main Street  
Post Office Box 1015  
Rock Hill, South Carolina 29731  
[lbmatty@comporium.net](mailto:lbmatty@comporium.net)

Phone: (803) 327-4192

Fax: (803) 329-1344

January 6, 2015

Mr. Daniel E. Shearouse  
The Supreme Court of South Carolina  
Post Office Box 11330  
Columbia, South Carolina 29221

**RECEIVED**

JAN 13 2015

**S.C. SUPREME COURT**

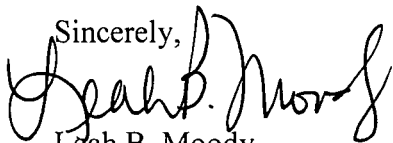
**RE: Jerel Worthy v. State of South Carolina**  
**Case No.: 2013-CP-42-1234**

Dear Mr. Shearouse:

The York County Court of Common Pleas appointed my office to represent Jerel Worthy in his Post-Conviction Relief action. Please find enclosed for filing the original and two (2) copies of the **Notice of Appeal, Proof of Service** and one (1) copy of the **Order of Dismissal** in the above-referenced case. Please return the clocked copies to me in the enclosed self-addressed, stamped envelope.

Thank you for your assistance with this matter.

Sincerely,

  
Leah B. Moody

Enclosure

cc Jerel Worthy  
Suzanne White, Esquire  
Sharon Graham, SCCID  
Hope Blackley, Clerk of Court, Spartanburg County